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South Carolina House of Representatives

Legislative Update & Research Reports

Robert J. Sheheen, Speaker of the House

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STATE DOCUMENTS

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Legislative Update

The Week in the House

Shorter sessions ahead?

During the legislative week of May 5 through May 8 the South Carolina House of Representatives began debate on two bills aimed at shortening and improving the annual sessions of the General Assembly. These bills were an outgrowth of meetings of a joint committee of the House and Senate, designed to look at ways to improve and streamline the operations of the Legislature.

Changes in forecasts and in time

The first measure, H.2549, would make changes in the method of economic forecasts by the Board of Economic Advisors, and shift the General Assembly's mandatory adjournment from the first Thursday in June to the first Thursday in May. The second bill, H.2550, would amend the state constitution in order to permit the shortening of the legislative session. Both bills were set for special order during the week.

H.2549 came up on Wednesday and the House engaged in a strenuous debate over the bill, which was amended in several areas. One amendment, proposed by Representatives Carnell and Felder, would make changes in the method by which the Board of Economic Advisors presents its forecasts of state revenues. Included in these changes in a revenue cap, based on past general fund collections.

The bill was approved by the House late in the day on Wednesday, May 6. The second measure, H.2550, came up for debate Thursday. This measure would amend the state constitution so that the General Assembly starts its sessions in February, rather than in January. The House adjourned for the week before any final action was taken.

Child protection

While the comings and goings of the General Assembly occupied House members during much of the week, other bills were given final approval and sent over to the Senate. Two of these dealt with child protection.

H.2014 (Rep. Wilkins) would have the Department of Social Services go to the Family Court—rather than the Circuit Court, as at present—in order to seek an injunction on the operation of child day care centers. Violations which DSS could seek an injunction on operations would include a center operating without a license, violations which threaten harm or danger to children, or repeated violations of DSS rules or regulations.

A second bill, H.2648 (Rep. Wilkins) would set up pre-placement and background investigations before a child is placed with an adoptive parent. The checks would look for relevant information on the suitability of placing the child in the particular home.

Clogging and other culture

Also sent to the Senate was H.2973 (Rep. T. Rogers) which would set up the South Carolina Folk Heritage Awarded to honor up to four recipients each year for their achievements and accomplishments in folk art in our state. The persons selected would have to meet standards for authenticity and contribution to the folk culture of South Carolina.

Legislation Introduced

Government Operations

Mobile homes and delinquent taxes (H.3107, Rep. Rudnick). Mobile or modular homes sold for nonpayment of taxes may be reclaimed by their owner within one year if the following conditions are met.

First, the former owner would have to pay all taxes, penalties, and costs and expenses of the sale of the home. Second, an additional 8 percent interest of the whole amount of the purchase price would have to be paid by the former owner, along with the amount of any taxes paid by the bidder on the home.

The tax collector would return to the bidder the purchase price, any taxes paid, and the 8 percent interest. The original owner, delinquent no more and chastened by the experience, would get the mobile home back.

Statewide Grand Jury (S.577, Sen. Hayes; S.734, Senate Judiciary Committee). These are the Senate versions of the statewide grand jury which was proposed by Attorney General Travis Medlock in his annual letter to the General Assembly. (See *Legislative Update* number 13, April 7.)

The first measure, S.577, proposes a constitutional amendment which would permit the General Assembly to create statewide grand juries and describe their operations. This would have to go before the voters at the next general election for their consideration. If approved, the second proposal, S.734, could be put into place. This bill would establish the grand juries and their operations.

The major difference between the grand jury legislation introduced in the House and the version passed by the Senate is this: the Senate bill limits the grand jury to crimes dealing specifically with drugs or obscenity; the House bill has no particular limitation.

Annual reports: not so fancy (S.688, Sen. Waddell). This bill deals with annual reports required of state institutions, departments and agencies. The measure wants to "limit the content and style of printing, and thus keep the cost of ... publications within reasonable limits." Two methods would be imposed to achieve this goal. First, the agencies would have to make an annual report on the cost of their publications; second, such reports could not be printed in a multicolor format.

Labor

Second Injury Fund, and Worker's Compensation (S.547, Sen. Lourie). Employers operating in violation of 42-1-310 of the Code would not be eligible for reimbursement from the state's Second Injury Fund, if this bill passes.

In the Code, 42-1-310 is the section which states that employers and employees accept the provisions of the Workers' Compensation Law and agree to be bound by it--unless prior notice to the contrary is given before any injury or death.

H.2718, sponsored by Rep. Toal, is the comparable House legislation. It is currently in the House Labor, Commerce and Industry Committee.

Second Injury Fund: Assessments (S.549, Sen. Lourie). Assessments made by the Second Injury Fund on employers or insurance carriers would be considered personal debts under the terms of this legislation. Failure to pay the assessment could lead to a penalty fine of 10% of the unpaid assessment. In addition, failure to pay within thirty days could lead to a complaint for collection being filed in court. At the same time of this filing, the state Insurance Commission and Workers' Compensation Commission would be notified so they could take "appropriate legal and administrative action immediately."

H.2719 (Rep. Toal) is the equivalent House bill; it is also in the Labor, Commerce and Industry Committee.

Law and Justice

Indecent exposure (H.3120, Rep. Hearn). Currently, the law covering indecent exposure has a section that states that the person viewing the exposure (the exposee) must be on a street or highway. This bill would strike that, which would eliminate the restriction on what is a public place for the purpose of this part of the Code.

Defense of indigents (S.59, Sen. Pope). This bill would amend the existing indigent legal defense program so that assets of indigents could be paid to the county where the case is conducted. The court, after reviewing any assets the defendant might have, could order them paid to the defender corporation of the county where the person is being represented. Should there be no defender corporation in that county, the assets could go to the state Judicial Department.

The Latest on Seat Belt Laws

Introduction

Mandatory seat belt use--an idea whose time seems to have come and perhaps gone--was discussed this session in the South Carolina General Assembly. It failed to get out of the Senate, and could not attach itself to the 65 mile per hour speed limit bill.

Few legislative items have aroused the public interest and political controversy of mandatory seatbelt use. Although the matter may be quiet for the moment, it seems likely to return. On the one hand, supporters said that seat belt use would save lives, and lower insurance and medical costs. Opponents said requiring motorists to buckle up deprived them of their individual liberty, that the law was basically unenforceable, or that it hadn't been shown to work elsewhere.

What of elsewhere? In this brief report, Legislative Intern Edward Ryan of the University of South Carolina reviews recent state actions regarding seat belt use. His report pays special attention to those states where laws were enacted earlier, but have been repealed, or where a strong movement is underway to repeal them.

Background

By now, we all have some idea about the beginnings of the controversy. On July 17, 1984, Transportation Secretary Elizabeth Dole announced that automatic passenger restraints would be required in all new automobiles beginning with the 1990 model year, unless enough states ordered mandatory seat belt usage by April 1, 1990 to effectively cover two-thirds of the nation's population.

Not just any piece of seat belt legislation will suffice: the laws must comply with the Federal minimum criteria which are:

1. Seat belts must be fastened while the vehicle is in forward motion.
2. Trucks, tractors and four wheel drives are exempt.
3. A minimum fine of \$25 must be, though this may include court costs.
4. The fact that an individual failed to comply with a mandatory use law may be used as evidence to mitigate damages sought by that person in any subsequent litigation to recover damages as a result of a traffic accident.
5. The state must establish a prevention and education program to encourage compliance with the law.

The "Trapdoor Effect"

The key point in Dole's rule is that the requirement for automatic passenger restraints for model year 1990 will not take effect if two-thirds of the nation's population are covered by federally complying belt laws. These restraints are more popularly known as airbags and some observers claim the automobile companies are trying to avoid the requirement due to the safety product's high initial cost.

Highway safety advocates have cringed at the "either/or" nature of Dole's plan, which they believed undermined efforts to maximize safety by adoption of the mandatory belt usage laws in conjunction with forced installation of passive restraints. Caught in the middle are state legislatures, forced to weigh the competing arguments of automakers, insurance companies, safety advocates and the ever vigilant foes of government regulation of personal conduct. At this point, twenty-six states have mandatory seat belt laws and no two are alike.

Here are a few states' responses to the problem:

* The laws in Kansas and Florida clearly state legislative intent to avoid compliance with the Federal measures. Florida's measure, for example, says that the enactment of the seat belt standard "should not be used in any manner to rescind or delay the implementation of the Federal automatic crash protection system requirements."

* California has promised to void its law if the Transportation Secretary cancels the passive restraint standards.

* Michigan will repeal its seat belt requirements if any Federal passive restraint standards take effect on or after April 1, 1989. This may be an example of a state bowing to its business constituency. Michigan is appealing to the automakers by allowing its law to be counted as complying with Federal standards. This also means that its law will end on this Federal "D-Day" if too few state laws are in compliance.

The ultimate rejection: Repeal

Some states are clearly using legislation to send a message to Secretary Dole that they do not want seat belt laws to stop the use of airbags. Now there is a new trend in a few states with such laws. In Nebraska and Massachusetts, mandatory seat belt laws were repealed by referendum on last November's ballot. These were not so much definitive signals to Secretary Dole as they were signs of public discontent with government legislation against personal freedom.

In the case of both states, the issues were won with grass-roots support, limited budgets and close votes. Massachusetts defeated its mandatory seat belt law by 54% to 46%, while the margin in Nebraska was about .1%. In Massachusetts, proponents of the seat belt law had a campaign fund of \$400,000 while the Committee to Repeal the Mandatory Seat Belt Law had just over \$9,000 to work with.

Nebraskans for Safety spent about \$540,000 to advertise the benefits of the law. This included a contribution of \$405,871 from Traffic Safety Now, a Detroit group financed by car companies. The opponents of the Nebraska law spent about \$2000 on advertising.

The power of radio

It was Boston radio talk show host Jerry Williams who began the drive to repeal the Massachusetts law. During his morning drive time segment on WRKO, he brought up the point that the law is an infringement on the personal liberty of Massachusetts residents. He thought that they had a right to behave as they wished in their own cars. So many callers contacted him in strong agreement that he decided to take action.

With the help of the state's Modified Motorcycle Association and attorney Gregory Hyatt of Natick, Mr. Williams gathered enough signatures to put the question to the people last November. The referendum itself was already required by the seat belt legislation, but Williams' initiative made it binding.

In a related development, Massachusetts State Representative Barbara E. Gray plans to file legislation that would require drivers aged twenty-five and younger to wear seat belts. The bill would allow police to ticket anyone under twenty-five who is not wearing a seat belt. Violators would be subject to a \$50 fine.

Likewise, last December Lincoln, Nebraska, in a last gasp effort, passed a local ordinance requiring seat belt use in the city limits. In January, the Lincoln City Council voted four to three to repeal it.

Items in brief

The preceding are the most pressing questions on the seat belt legislation forefront. There are other pertinent news items linked to seat belt legislation. Here is a look at a few of these:

* In Illinois, the state police superintendent has proposed a plan that would allow troopers to pull over and ticket drivers for not wearing seat belts. The state's mandatory seat belt law only allows tickets to be issued for a seat belt violation after drivers are stopped for another offense. The state police are interested in making more people wear seat belts because of the 5% increase in traffic deaths in 1986 from the previous year's statistic.

* New York, the first state with a mandatory seat belt law, will also be the first state to require seat belts on school buses. The measure takes effect July 1, 1987, and will require that all new school buses delivered after that date be equipped with lap belts and extra padding on the tops and backs of seats. It will be up to local school districts to decide if use of the belts should be mandatory or optional, and local officials can decide whether or not to install seat belts on older buses. However, those built before 1977 are designed in such a way that belts are not feasible. The state will pay for up to 90% of the cost of the new safety measures, which should be about \$1,500 per bus. The law also exempts school districts, bus drivers and bus operators from liability as a concession to critics who were worried about lawsuits stemming from students injured while unbuckled.

* In Washington, State Insurance Commissioner Richard Marquardt has requested that the state's six hundred auto insurers reduce their rates in response to the seat belt law which has been in effect since June 11. The goal is to produce a 2% to 5% decrease in present rates or in new rate increase requests.

Since the beginning of this year, drivers were fined \$47 for not wearing seat belts, ending the six month grace period for enforcement of the law. The state Insurance Council supports this strict enforcement of the law and publicity about seat belt use because it has an important effect on insurance rates. If accident and severe injury rates drop due to a seat belt law, insurance companies will be more willing to drop their rates up to ten percent or take concessions on future requests for rate hikes.

* In Maryland, the number of traffic fatalities increased last year over the previous year despite the new seat belt law that took effect July 1, 1986. In 1986, there were 780 traffic deaths in the state, an increase of 5% from the year before. According to the state police, not enough people are wearing seat belts. Last October, the passenger compliance rate was 59%, down from 66% following passage of the law.

* In New Mexico, the chief of the Traffic Safety Bureau recently recommended that the state seat belt regulations be broadened to include truck drivers and their passengers. The seat belt law went into effect January 1986, and requires only people in cars' front seats to buckle up. The recommendation stems from statistics showing that the law saves lives combined with the fact that there are many privately owned trucks on the state's roads. Between January and October 1986, there was an 18% decline in deaths of front seat occupants of cars from the previous year. There was, however, a 9.6% increase in deaths of truck occupants during the same period.

Conclusion

Perhaps only genies with crystal balls can predict what will eventually happen to all these seat belt laws. An impetus for more states to enact such legislation may be the recent move by Congress to allow the states to raise their speed limits to sixty-five miles per hour. Traffic Safety advocates may well have proof that this new turn makes seat belts more important now than at any time since the early 1970s, when fifty-five became the top speed for everyone.

Further Adventures in the South Carolina Code of Laws

President of University of South Carolina (59-117-100)

"The board of trustees shall take care that the president of the University shall not be an atheist or infidel."

Impressing seamen (54-9-80)

"Any attempt by fraud or force to ship, against his will, any person as a seaman on board any vessel in any port in this State is hereby declared a misdemeanor..."

Editorial Comment on the Legislature (Part 4)

Background

April, according to one authority, is the cruelest month, "mixing memory with desire." In their editorial commentary for the month the newspapers of South Carolina mixed memory, desire, some praise and more blame when discussing the actions of the General Assembly. A representative sampling follows.

Crime and corrections

The issues of crime and the prison system were muted during April, despite an inevitable controversy over another round of early release of inmates to deal with overcrowding.

On the crime front, the *Columbia Record* praised the House of Representatives for its version of a bill dealing with driving under suspension. The paper said the House "did a good day's work Wednesday when it amended a Senate bill to require a mandatory jail term for folks who are caught driving under a suspension resulting from a DUI conviction."

The editorial went on to say that the jail term "is another important step in making South Carolina roads safer. Faced with certain jail as punishment, we suspect fewer DUI offenders will opt to crawl behind the wheel after losing their licenses."

Meanwhile, the Greenville newspapers want something done about the prison situation. The *Piedmont* ran an editorial which recounted and approved of a speech by Charleston Police Chief Reuben Greenberg. Chief Greenberg was scathing in his comments on early release, and advocated more prison construction to hold criminals for the full length of their terms. The paper quoted him as saying, "We're sending the wrong message to the criminal," when overcrowding forces early release. The *Piedmont* concluded: "Some say Greenberg could strengthen his message by providing solid advice on how to raise the money necessary to build enough prisons. But even with that hole in his speech, his message is powerful."

In its editorial titled "New agitation forces another, longer look" the *News-Piedmont* thought the "feisty give-and-take initiated by the governor" would help shake up thoughts on the corrections issue and bring about novel solutions. As the paper said, the controversy "at least helps agitate for some new answers, if there are any out there."

Education

The normally staid subject of education received a boost during April as editors focused on two hot topics: sex and money.

Sex...

The move to provide comprehensive sex education programs for our state's schools has been discussed for a number of months. The Governor's recent remarks on the plan spurred increased talk, including talk among the editors that the proposal has a renewed chance for passage this session of the General Assembly.

The State said that the Governor's request for changes in the bill (generally making it more conservative and oriented towards "traditional values") "may have provided the attention and could forge the unity that this desirable but controversial legislation needs." The paper noted that public opinion is in favor of some sort of sex education—a recent poll indicated that "eight out of every 10 adults support sex education in public schools and about 90 percent favor public instruction in the use of condoms to prevent unwanted pregnancies or the spread of AIDS."

The Greenville *Piedmont* supported the Governor's call for amendments to the proposed plan. These would include prohibition of instruction concerning sexual activity outside marriage, emphasizing abstinence until marriage, and prohibitions against providing contraceptives or counseling advocating abortion. "There's no reason for the lawmakers not to adopt these recommendations," the *Piedmont* proclaimed. "They would not 'strengthen' the legislation, as Campbell put it, as much as they would focus it while preserving its important purpose."

The paper said that young people "need to know how their bodies work and why they have strange, new feelings that can both frighten them and make them curious." Then, addressing what is perhaps the core of the issue, the editorial concluded: "And it is pointless merely to tell them that they must abstain because abstinence is right. Morality does not exist in a vacuum. 'Thou shalt not steal' has no meaning to someone who does not understand the concept of theft. The same notion applies to any moral principle society wants to teach its children."

The same viewpoint (even the same word, "focus") came up in the editorial of the other Greenville paper, the *News*. It was less impressed with the bill, however, saying that the debate over the proposed amendments "may even lead to this bill dying on the vine, which isn't a bad idea, either."

... and money

More money for education—on all levels—occupied the thoughts of at least four editors during the month.

The Anderson *Independent-Mail* said that funding of ETV was a "vital education expenditure." It said that the system was outstanding, reaching students across the state, and doing it with "just 1 percent of the state's education budget." But, ETV is threatened with cuts, even though it has little enough now. "Its offices are not located in a gleaming high-rise, but in an old grocery store and a string of dilapidated houses in a rundown Columbia neighborhood," the *Independent-Mail* bewailed. It urged that the recommendation of a Senate subcommittee be adopted to restore most of the cuts made in ETV's budget.

The Lancaster *News* took a look at increasing costs of higher education, and said it was time for the state to provide help to South Carolina students. "Perhaps it is time the SC Legislature looked at a penny tax to help subsidize in-state students who want to attend state colleges and universities," the *News* said.

It pointed out that Clemson, for example, had increased tuition by 28 percent since 1984, and was looking to impose a new hike soon. The paper noted that such increases were found at other state schools, but were particularly unfortunate at Clemson. "The truth is that Clemson was founded to provide the expertise to help the state out of the post-Civil War depression. It would be a shame for a school with roots as deep as that to have costs so high that children of middle-class South Carolinians would be prohibited from attending."

The *News* expressed its view clearly: "The legislature should consider some type of additional help for in-state students. South Carolina, as much as any state in the union, needs to provide affordable higher education opportunities to its young people."

... and more money

In its editorial titled "School reform praise masks grave problem," the Greenville *News* pointed out troubles ahead. They are, in the *News'* views, mainly fiscal. "The truth is the reforms were seriously underfinanced by the extra one-cent sales tax adopted to pay for program improvements and to also boost teacher pay. Teacher pay is taking 38 percent of the revenue this fiscal year, will take 47 percent next fiscal year, and will claim increasing percentages in the fiscal years afterwards."

This, according to the *News*, is "representative of the state's fiscal affairs in general." Although tax revenues have been growing, "state agencies have been winning even higher spending authority.... The point is our state government suffers from pervasive budgetary mismanagement and threatened erosion of services. And the widely praised school reform effort is an independent example of it."

The Anderson *Independent-Mail* said that education is "Our most valuable infrastructure," and feared that South Carolinians might be "already bored with the notion of improving our public schools." It noted that other kinds of "infrastructure" were gaining attention now—roads, wastewater treatment and local water systems were becoming more popular.

The *Independent-Mail* went on to say: "Roads and water systems do us little good if industries must hire from a population of illiterates and high school dropouts. Ask any industrial recruiter; he'll tell you that a well-educated work force and good public schools are very high on the list of priorities incoming industries set.... It's far too early to be bored with our schools and moving on to a new project. Far too much remains to be done to ignore this most basic infrastructure now."

That moment of silence

"State senators are fooling no one but themselves when they say the 'silence' bill approved Thursday legislates contemplation, not prayer, for South Carolina's school children. In their hypocrisy, they have managed to trivialize the meditation they hope to encourage." So wrote the *Greenville News-Piedmont*, obviously making its opinion clear.

It continued with the thoughts that first, getting the students to stay quiet for a minute would be hard enough, and that anyway, "only students know what they do in the silent moments of their day." The *News-Piedmont* scolded the Senators for their efforts—their real efforts:

"What they are doing is exerting unspoken pressure to pray, and that is their mistake. Prayer, to those who engage in it, is a conversation with God. Like most conversations, it is best when it is self-directed and heartfelt. Students are more likely to experience both when they choose their own silences."

The shrimp baiting issue

When it came to the environment there was one issue occupying editorial writers: shrimp baiting. Coastal newspapers were in favor of strong measures—one called for outright banning of the practice, in fact. Inland editors were more willing to accept compromise on the question.

Such was the viewpoint of the *Orangeburg Times and Democrat*, which said that the accord reached between Senator Waddell (who favored banning) and Senator Applegate (who wanted a baiting season) "is worthy of legislative passage." The Senate version of the baiting bill differs from the House in that it has a shorter season, but makes no requirements for licenses, use of poles to mark baited

spots, and has shrimpers work from anchored boats. Said the *Times and Democrat*: "The compromise is realistic. The idea of outlawing baiting because of the abuses of a few seems unjust. Enforcing a ban would be nearly impossible."

The *Charleston Evening Post* was also willing to accept compromise on the shrimp baiting issue, but wanted stronger controls, especially on the catch limit. "The existing catch limit of 50 quarts of heads-on shrimp per household (three men in one boat legally can take home 150 quarts) is patently absurd.... Reducing the catch limit to 20 quarts, heads-on, per boat per day—as favored by the Wildlife and Marine Resources officials—comes across as a reasonable proposition that would facilitate law enforcement, yet give the recreational shrimper plenty for his table."

The *Post* also favored "putting teeth" in the catch-limit law by allowing fines to be increased to include confiscation of boats and trailers for serious violators. "Confiscation is a proven deterrent to illegal practices in commercial shrimping. It could be equally effective in curbing commercial catches by unlicensed shrimpers...."

But best is banning, according to the *Hilton Head News*. "It is regrettable the South Carolina General Assembly ignored the wishes of its experts at the South Carolina Wildlife and Marine Resources Department and failed to place an outright ban on the practice of baiting for shrimp by so-called 'recreational fishermen,'" the *News* wrote.

It saw several problems to the practice of baiting. First, there was the danger it would deplete the shrimp population. Second, the staking of baited areas sometimes led to arguments and fights. "The waters are open to everyone and no person has the right to stake out an area and claim it for his own, even for a brief period of time." And finally, according to the *News*, allowing the practice to go on despite the recommendations of marine biologists made no sense. "To have the best in wildlife and marine resources management, the rules and regulations relating to the use and harvest of our natural resources must be in the hands of those most familiar with those resources, and not in the hands of politicians."

Tomorrow and tomorrow and tomorrow

Fiscal responsibility was the topic of an editorial in the *Abbeville Press & Banner*. Specifically, the newspaper was enjoining such responsibility upon the General Assembly in its budget duties, or as the headline read, "State Legislature must realize 'There is a tomorrow.'"

The *Press & Banner* had some specific recommendations. First, "the South Carolina budget has gotten out of hand; it's too big. It's more than the people should be called upon to underwrite." So

the P&B would like to see it smaller. Second, the newspaper is leery about what it terms the "state's Savings Account," by which it must mean the reserve fund. The paper says that the danger with this is that "someone will come along and spend it, even wastefully. There is absolutely no effective way to absolutely guarantee the integrity of purpose of the fund can be protected."

When will the fund be raided, perhaps wastefully? When will lawmakers succumb to temptation and add it to the general funds? "Think, if it's not used in such manner this year, it will next year, the year after, or the year after that." (In specific predictions of the future the editors of the *Press & Banner* are right up there with Nostradamus and Jean Dixon.)

Third, and finally, the newspaper does not think reserve funds should be amassed to pay for capital improvements, anyway. "Funds collected for capital improvements in the future place an unfair burden on current taxpayers. Some will move away, some will die before a sufficient amount is accumulated for a capital improvement. Payment will have been extorted [sic] from persons for projects that never benefit them."

Instead, the editorial suggests paying for projects the old fashioned way, by bond issues and long term notes that extend over the life of the project, so that "those who are benefitting are then paying for the project. If the project in question is not worth the payoff, including interest, then it should not be effected."

Fiscal home rule

The local government finance act would provide counties and municipalities with the authority to enact taxes to pay for their operations. Right now they are limited to property taxes, fines and fees. These are not enough, papers from the coast to the piedmont agreed: true home rule means local control over revenues.

The Beaufort Gazette said that a "vital element" of Home Rule is lacking: "an alternative to the property tax as a means to raise revenue." But, the Gazette sighed, "The prospect for passage again this year seem doubtful."

The reason is that "Foes lurk at every turn for the tax." Included are a heterogenous list: Libertarians, the National Taxpayers Union, a cabal of businessmen.... Still, "the reform is necessary and long overdue. However, cities and counties should pursue these [new] revenue sources as an alternative to the property tax as a means to raise money, not as an additional tax. As one area of taxation is raised, another should be diminished."

"Give us this Home Rule," pleaded the Spartanburg Herald-Journal. "The issue will not go away. Alternative sources of revenue are essential for the fiscal health of local governments and for the services their people expect. Continuing to pile virtually the whole load on owners of homes and other real estate is bad business for the whole state."

The Spartanburg editorial urged passage of the bill. "Legislators would be wise to get this one behind them by conforming to the fundamental principle of Home Rule. Defer the matter of local taxes to the governing bodies who have to deal with the problem. Otherwise, they will be confronted continually with an increasingly hot controversy." (It's not clear here just where that pronoun "they" points, to legislators or the local governments. Clearly, though, somebody is going to be confronted by steamy controversy.)

The Greenville News-Piedmont also said that "Local governments need fiscal freedom," but expressed deep pessimism over chances of passage. Cities and counties pushing for approval of the bill were "tilting at windmills," because the measure was in a Ways and Means subcommittee that was "the same dark hole that proved to be its final resting place last year."

Once past this surreal landscape of windmills, black holes and final resting places, however, the editorial spoke out forcefully for the merits of the bill. "With limited taxing authority and federal and state assistance in rapid decline, local governments are facing their most severe revenue stress in modern history.... Local governments cannot squeeze services to that degree, which means they will have to increase the only revenue sources available: property taxes, fines and fees. Since the latter two have a negligible impact, property owners once again will shoulder most of the financial burden."

As for the local government finance act, the News-Piedmont said: "The bill does not raise taxes; it offers options." Local governments realize they are accountable to the voters: "few would be able to sell their constituents on any new taxes without property tax relief. But the point here is they should be calling the shots on local budget financing--not the Legislature. They know full well the discipline of the voting booth."

The editorial concludes, "But if the General Assembly--and the governor--want to see property tax relief in this state, they will see that cities and counties receive some taxing alternatives. There is no other choice."

Freedom of information act--worthwhile or gutted?

The Myrtle Beach Sun News said it was "A major step," when it reviewed the House and Senate versions of the revised Freedom of Information Act. It said the changes had "significantly improved" the Act. The paper would have preferred a stronger measure, however.

The Greenville News-Piedmont substantially agreed, saying that "some loopholes exist, but the revisions to the Freedom of Information Act that emerged from the state Senate this past week go a long way towards making government more accountable to the public." The Greenville paper also wanted loopholes closed--such as colleges and universities shielding the names of donors.

The Rock Hill *Evening Herald*, on the other hand, was more critical of Senate efforts to "step back—indeed to turn back—from that threshold [of making its government more accountable to the people]." The paper attacked efforts "to stall the bill and to riddle it with new loopholes," saying they were "a disservice to the citizens of our state."

The Columbia *Record* and the *State* both agreed, and used the same terminology. The *State* warned that the "Senate may gut right to public information," while the *Record* headlined that "Effort to gut bill misguided." Both newspapers were against gutting the bill, saying (as the *State* put it) that "the freedom of information law is for the people's benefit."

Highways: speed limits, seat belts, new roads

The newspapers hardly had time to get around to the proposed increase in the gasoline tax and the new roads it would fund (although a couple of editorials came in on that subject) but a sizeable number of them were able to comment on the topics, usually yoked, of faster speed limits and required seat belts.

The editorials fell into two categories: those who thought speed and belts should go together, and those who felt they shouldn't.

Those wanting to include the two wrote in the following fashions. The Florence *Morning News* said that the seat belt requirement and upper speed limit were "Properly yoked." As the editorial said, "If the Legislature authorizes the higher speed limit, it should also pass legislation requiring motorists to buckle up." The reason is that "there is clearly a price to pay, a gory one" for higher speed limits—more accidents, more deaths, more injuries. These are the costs that come with faster traffic, according to the *Morning News*.

"The least the Legislature can do, if it votes to raise the speed limit, is to try to offset those costs with a mandatory seat belt law. Studies have repeatedly shown that wearing seat belts increases the chances of surviving an automobile accident (by 45 percent) and lessens risk of serious injury (by 50 percent)." As for the claim that mandatory use restricts freedom, the paper dismissed it thusly: "Arguments to the effect that seat belts interfere with personal freedom and the 'right' of a person to risk his neck on the highway if he wants to—because it's his neck—are mostly nonsense."

The Charleston *News and Courier* agreed. Admitting that it was only a matter of time before the speed limit was raised, the paper added that "hopefully, it will only be a matter of the same amount of time before South Carolina has a mandatory seat-belt law. Indeed, contrary to some half-baked arguments, both issues go hand in hand."

The editorial used many of the same reasons advanced by the Florence writers. "Meanwhile, enactment of a sensible seat-belt law--while taking away a certain amount of personal 'freedom'--would not only save lives, but hundreds of thousands and of dollars in costs for public emergency services required after collisions, subsequent health-care delivery and welfare services provided many of the victims, and increased insurance rates."

The Columbia Record went on record to support seat belts linked to a 65 mph speed limit. The editorial quotes statistics from the National Highway Traffic Safety Administration that "8,000 lives could be saved annually if 70 percent of all motorists wore seat belts." If the General Assembly moved to raise the speed limit, the paper said that "such a move should be accompanied by measures to improve highway safety. These include stricter law enforcement, higher fines or speeding and a law requiring motorists to buckle up."

The Orangeburg Times and Democrat joined with the rest in saying that seat belts and faster speed limits should go together. "With some reservations we endorse the new speed limit for South Carolina--and at the same time believe the need for a seat belt law is greater than ever."

The Greenville News, on the other hand, cried out against mandatory seat belts, saying that the "State can't play nanny." It looked askance at moves to link higher speed limits and seat belts, and dismissed arguments that the two issues were related. "Most opponents of seat belt legislation protest it on ground of personal freedom rather than safety, and speed limit has no factor in the debate. The two issues have no business being tied together." The paper lashed out at efforts that would "unfairly tie it [mandatory seat belts] to the popular speed limit bill to foist it on the people."

Higher speed limits (without belts being foisted)

For several editorial writers, however, the issue was strictly the higher speed limit, without mention of seat belts. Some were for it, some were against it, and some were just baffled by it.

The Lancaster News said that the "Speed law is confusing," and confessed that "We have mixed emotions about raising the speed limit, but given the confusion surrounding the recent decision by Congress to allow states to decide for themselves whether the speed limits should be raised, the legislature should go ahead and approve the bill.... Politicians usually bow to the will of the people. In this case this will is clearly on the side of the higher speed limit."

The Greenville Piedmont admitted to no confusion, saying that "State's motorists should enjoy faster speed limit." As a matter of

fact, the *Piedmont* feels that they already enjoy the higher limits: "Generally, the 55 mph speed limit has been as widely ignored as it has been obeyed." In other words, "Motorists have been voting with their accelerators."

The *Anderson Independent-Mail*, on the other hand, disagreed with raising the limit. "A 55-mph speed limit is fast enough for South Carolina," the editorial said. "If one drove at the speed limit, raising the limit would knock less than 30 minutes off driving time from Anderson to Charleston. On shorter distances, the time savings would be miniscule." The paper weighed the time that might be saved with a 65 mph limit to the benefits of staying at 55 mph.

"To trade such small amounts of time for fewer traffic accidents and less dependence on Arab oil seems like a pretty good deal. All that raising the speed limit will do is let us live our lives faster than is safe."

Higher taxes, more roads: early returns

As noted above, our clipping service has not sent in the expected deluge of editorials relating to the increase in the gasoline tax. So far, the results have not been favorable.

The *Charleston Evening Post* pointed out the fact that almost 2,000 bridges in South Carolina are listed as structurally deficient by the Highway Department. Yet, "To finance the expansion program the highway commission has called for (and legislation now before the General Assembly provides for) a nickle increase in the gasoline tax. Raising taxes to build more roads when you haven't the money to keep up what you've got strikes us as an imprudent way to help people get where they want to go in a safe and timely fashion."

The *Greenville News* likewise pointed out the "chief flaw" with the proposed plan—that it is "loaded with something for almost every legislator." The result was that the highway commission is "promising blacktop to mollify lawmakers" and so win them over. That promise, the *News* said, "remains a shoddy way to advance a wasteful highway construction program."

Automobile insurance: reform or ripoff?

A proposal to amend current automobile insurance law in South Carolina recently passed the Senate, prompting many to wonder if this could be the "insurance reform" so long sought by so many. Some editors said "yes," while others emphatically said "no."

Three say "yes"

Three editorials supported the Senate measure. The *State* looked over the legislation and declared that "Latest auto liability bill ought to pass." The paper noted that the proposal would allow insurance policies to be written, and rates charged, with reference to a person's driving record. Drivers guilty of certain serious violations would be billed an addition 25 percent surcharge in addition to higher fees. "This will amount to a stiff penalty for lousy drivers, but they deserve it," the *State* stated.

The editorial admitted that "The fat surcharge might force some bad drivers who can't afford it off the road," but noted that according to Insurance Commissioner John Richards, "only 7 to 10 percent of the driving population will fail the objective test [to determine rates] and draw the surcharge." All in all, the writers concluded, "The bill breezed through the Senate with surprising ease. It looks good enough to us to rate similar treatment in the House."

The *Charleston Evening Post* agreed, saying that the bill "promises concrete steps in needed auto insurance reform. It would do what should have been done long before now. It would shift more of the insurance premium costs from good drivers to bad drivers--where it logically should be."

The editorial went on to reflect on the driving record of South Carolinians, and found things less cheerful. It pointed out that our auto insurance rates are the 16th highest in the country, and concluded that "A primary reason, however, is the state's collective driving record. Federal figures show that auto accident injuries in South Carolina increased 11.3 percent from 1984 to 1985, the largest increase in the nation."

According to the *Post*, the only effective, long-range method of reducing auto insurance is reducing auto accidents, and the way to do that is by changing driver behavior. "The way to change driver behavior for the better is through stricter enforcement of traffic laws and tougher sentences for violators (especially in DUI cases). Until the safe drivers in South Carolina stand up and demand a crackdown on the bad drivers, auto insurance rates are unlikely to decline perceptively."

The *News and Courier* also supported the bill, but its editorial was more of a complaint against the Legislature in general for not acting on auto insurance earlier, and against some Charleston members in particular for not endorsing the plan outright and right now.

The *News and Courier* wrote that the bill "is said to be what good drivers in South Carolina have been asking for the many years: Legislation that will make bad drivers pay a larger share of the cost of insurance." "If that is true," the editorial went on to

say, "then the General Assembly is considering reversing a position that until very recently has been described as politically irreversible."

Accepting what is said to be and what might be true, the *News and Courier* endorsed the insurance plan. "It is good, therefore, to be able to applaud the senators for passing a bill that promises reform and to say that the House will be applauded too, if it passes it, and also Gov. Campbell, if he signs the bill, as he says he will."

But the paper wants readers to "hold any further applause. There may or may not be real substance to rosy prospects in the House." The reason, according to the *News and Courier* is that the fate of the bill rests with two members from Charleston, "neither of whom we view as predictable."

The two are Rep. John Bradley and Chairman Clyde Dangerfield, and the reason the *News and Courier* considers them unpredictable is that they want to study the legislation before adopting it. It quotes Chairman Dangerfield as saying that whatever is in the bill, "he can't go for it until he hears the pros and cons of how it will affect the lives of the people of this state." Such an attitude seems, for some reason, to trouble the *News and Courier*.

One says "maybe"

One paper took a middle course, supporting the plan, but with reservations. The *Rock Hill Evening Herald* generally endorsed efforts to make the changes, but found the proposed adjustments "flawed." The fault in the reforms: "They don't include a strong mechanism for forcing bad drivers to purchase auto insurance." The editorial writer decided that one effect of higher rates for bad drivers might be to prompt the risky motorists to chance going without insurance at all. What should be done in that case?

"One approach would be to require drivers to show proof of insurance when they obtain license tags for their vehicles," the *Herald* said. "No insurance, no tags. Or—perhaps better—no insurance, no driver's license." This, of course, would mean action by the legislature. "The task for the legislature is to increase penalties for drivers who break the rules. Every effort must be made to ensure that the people behind the wheel have a valid license and that they've purchased the necessary auto insurance."

"With attention to such enforcement loopholes, lawmakers can significantly improve a well-intended but flawed insurance bill."

And three say "no"

Three editorial staffs were decidedly against the proposal for insurance changes.

The *Greenville News* called the measure "Odd insurance reform," noting that it penalized bad drivers without rewarding good ones. "Maybe an economic penalty on bad drivers is a good way to focus their attention on obeying the law and causing fewer accidents. But if that is the reason for the 25 percent surcharge, then the state should impose the penalty and use the revenue to beef up the Highway Patrol," the *Greenville* paper said.

And if insurance companies get more revenue, then the *News* said it should come "through rate hearings that test their profit and loss records, not get it from the political machinations that usually characterize insurance reform in the General Assembly."

The *Chester News and Reporter* asked "Can we afford more insurance 'reform'" in its editorial. Like the *Greenville News*, the *News and Reporter* disapproved of the fact that good drivers would not receive a break under the proposed changes, and that bad drivers (and perhaps good) might be tempted simply to go without auto coverage.

"We doubt that those with good driving records will see a major rate change," the paper maintained. It looked at the argument that "South Carolina's notorious traffic accident history" has caused auto insurance rates to soar. "If this caused insurance rates for safe drivers to increase, to offset the costs created primarily by accident-prone drivers, then why, if rates for bad drivers are being raised substantially, shouldn't there be significant premium changes for safe drivers?"

Finally, the *Florence Morning News* put its commentary in its headline: "Auto Insurance bill poor excuse for reform." The editorial spelled out the newspaper's reasoning.

The bill would add the 25 percent surcharge on bad drivers, the *Morning News* noted, "and there's no provision to reduce the premiums of 'good drivers' The bill only holds out the possibility of more moderate rises in insurance cost for good drivers. Big deal!"

The paper looks at and dismisses the several reasons sometimes given for higher South Carolina insurance rates, compared to those in Georgia and North Carolina. It can't be the highway system, because "The state's highway system is at least the equal of North Carolina's and Georgia's." It can't be the ratio of troopers to highway mile, because "If anything, troopers are a greater presence in South Carolina than in Georgia, and certainly a more visible force than the Georgia patrol."

If, on the other hand, the insurance costs are due to higher rate of lawsuits and verdicts in auto accident cases, then the *News* said that "the Senate hasn't even touched the area that really needs reform—tort law that presumably makes it easier to sue and collect large verdicts than in neighboring states." And it concludes:

"Something is wrong somewhere. South Carolina drivers as a group can't be that much different from those in neighboring states. Something else is different, and it's that something that ought to be the focus of the Legislature's reform efforts."

Pornography

The debate over the measure to toughen the state's obscenity and pornography law brought out comment from several newspapers. While most generally favored the legislation, a number of editorials wanted changes.

The *State* expressed the consensus with its heading, "Obscenity bill has virtue but is flawed." The flaw lies in the use of "community standards," which might vary widely from area to area in the state, and allowing county juries to set those standards.

"Such provision puts a heavy burden on book sellers who, failing to peruse some magazine or book, might learn too late that the content of a quality publication is found to be 'harmful to minors.' Certainly, no vendor can thumb through and evaluate all of the publications in stock. In fact, such legislation might remove from the book shelves much quality literature that could offend only the bluest of blue noses."

The *Greenville News* says that "there is much to be admired in the tough obscenity and pornography bill" but agrees with the *State* that numerous local standards, rather than one, state-wide standard, are a problem. The paper pointed out that "Narrowing the law to a local community standard could well result in a narrowing of legitimate constitutional rights. The First Amendment does not protect obscenity. But neither does it anoint personal self-righteousness or political opportunism as a means of removing what may be offense but fails to meet the legal definition of obscenity established by the US Supreme Court."

The *News* concludes that generally, the term "community standard" means a statewide standard. "Some states have chosen to interpret it differently, but South Carolina should not be one of them. The sure result will be confusion and legal disarray."

The *Columbia Record* was in substantial agreement with the other two newspapers, saying that the bill "is a mixed bag that needs refinement before passage." While it applauded the stiffer penalties for sexual exploitation of minors, it was troubled by the county juries setting "community standards" which "could create havoc among merchants and also deny young people access to non-obscene materials."

Since merchants would not know in advance what material might be deemed "sexually explicit" and thus unsuitable for sale to those under 18, the tendency would be to restrict sale of any publication

that might possibly be offensive. The net result would be denial of First Amendment rights to everyone under the age of 18.

The *Record* wrote that "some lawmakers say they oppose the county-by-county system of determining obscenity. We agree and urge that the bill be amended to allow an enforceable statewide standard and to establish a more reasonable limit on the sale of sexually-oriented materials to minors."

Surrogate parenting

The "Baby M" case concerned a couple who were unable to have children on their own. They contracted with a woman to be a "surrogate mother;" she was artificially inseminated with the husband's sperm and carried the child through the resulting pregnancy. After the birth, however, she wanted to keep the baby as her own, rather than release it to the couple with whom she had signed the contract. The entire issue was front-page news for months. One result was legislation being filed in South Carolina to regulate such practices.

The *Anderson Independent-Mail* thought that the state "clearly needs surrogate parenting act," and commended the legislation introduced into the Senate to regulate surrogate parenting agreements. It supported the bill's intent, which it says "that surrogate arrangements be made between mature, stable couples, and that South Carolina not become a 'baby farm' in which poor women sell their services to wealthy out-of-staters."

The *Charleston News and Courier* disagreed, wanting to ban surrogate mothering completely. After discussing the proposed bill, the *News and Courier* stated its major objection: "These practical considerations are all well and good—except that they mean accepting the unacceptable. Babies must not be bought and sold like BMWs. What South Carolina needs is a law that prohibits commercial surrogacy."

Race relations

Two issues concerning better race relations were discussed by the state's newspaper editorials during April. One was a hardy perennial; the other, a bit more novel.

First, of course, was the topic of the Confederate flag that flies over the State House. The *Carolina Reporter*, published by the school of journalism at the University of South Carolina, supported a referendum to decide the issue. It argued that "because our elected representatives cannot reach a decision, we should make the decision ourselves." There would be only one condition imposed: after the decision was made, "the debate [over the flag] must be discarded afterward."

The Beaufort Gazette agreed that the flag should come down from the state capitol. "After all, the Civil War and the Confederacy ended more than 120 years ago. The states that joined that lost cause have long since returned to the union, in mind as well as fact. The flags they fly at their seats of government ought to symbolize current allegiances."

Two papers, the Charleston Evening Post and the State, discussed the controversy in editorials marking the end of efforts--this session--to remove the banner. In its piece entitled "Flag flap furred" the Post noted that two Black legislative leaders, Sen. Patterson and Rep. Juanita White, have said that a fight over the flag this legislative session would take attention away from other, more pressing priorities. "That kind of level-headed thinking gives up hope that this matter may yet be resolved to the satisfaction of both sides," the Post concluded.

The State ran an editorial called "Emotional flag issue called dead for year," and basically said that the flag was a distraction from other issues. Still, it admitted that the matter would have to be resolved sometime in the future, and in a fashion that would take into account the feelings of all concerned. "It may take years for calm argument and reason to replace emotion. But in time, we believe, perhaps even next year, sensitivity to the feelings of others, as well as proper historical perspective, will prevail."

Finally, the issue of private clubs discriminating against persons because of race, color or religious creed was discussed by the Charleston News and Courier. While the Courier was against such discrimination, it was also against legislative efforts to deal with it. "The current flap in the South Carolina Legislature over discrimination in private clubs clearly owes more to politics than civil rights," the paper said, and it maintained that such discrimination would end by itself, as people became more evolved, and accepted persons different from themselves.

"What will not bring change for the good are such suggestions as the proposal by state Sen. Theo Mitchell--with the enthusiastic backing of Alcoholic Beverage Control Commission Chairman Elliott Thompson--that would prohibit organizations from receiving a license to sell alcohol, if they discriminate on the basis of race, religion or sex.

"That reveals a Big Brother mentality. Such intrusion into the private domain would foment prejudice and discrimination (in the worse sense of the word), and would violate the rights of clubbable people and undermine civilized values."

Hoffman vs. Foxworth

The appearance of political activist Abbie Hoffman at the College of Charleston and Rep. Foxworth's reaction caused editorial commentary from three papers in the state. Rep. Foxworth described Hoffman as an "aging flower child," and sent a letter to College President Harry Lightsey, Jr., expressing his disapproval of Hoffman's speaking at the college. All three editorials chided Rep. Foxworth.

The *Columbia Record* said that while Hoffman "may not be everybody's choice for a speaker, surely the South Carolina General Assembly has better things to do than to fuss over his appearance at the College of Charleston." After noting that in the mid 1970's the Legislature urged a boycott of the films of anti-war protester Jane Fonda, the paper concluded that "The legislature had no business in '73—and it has none now—engaging in sly censorship and censuring others for exercising their constitutional guarantees."

The *Charleston Evening Post* obviously finds Hoffman distasteful, calling him "a professional dissident who finds so much fault with the way this country's run that you have to wonder why he stays (except that enduring it and protesting are his bread and butter)." Still, the paper upheld his right to speak: "Colleges and universities are supposed to provide opportunities for students to hear different views. Minority opinions are as important to the learning process as majority opinions."

And finally, the *Evening Herald* of Rock Hill agreed that "one of the basic goals of education" is "to expose students to a broad range of ideas so they can learn to think critically and develop their own opinions." In language similar to the *Record* editorial, the *Evening Herald* said that "Surely our lawmakers have more important things to do than to waste time meddling in a college's speaker program." It also made the following acute observation: "During his speech, Hoffman observed that TV celebrity Vanna White has a higher name recognition among young people than Nicaraguan President Daniel Ortega. That's a point worth hearing, no matter where it comes from."